



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

OCT 22 1998

Office of the Assistant Secretary

AFBCMR 98-00521

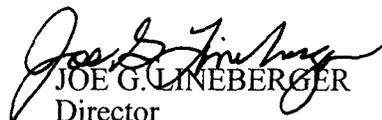
MEMORANDUM FOR THE CHIEF OF STAFF

Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED] be corrected to show that the Officer Performance Report, AF Form 707A, rendered for the period 14 February 1995 through 14 June 1995, be amended in Section IV, Impact on Mission Accomplishment, by deleting comments and replacing them with the following:

- Superior achievement in all mission areas--when involved efficiency, timeliness and success are assured
 - Successfully resolved many direct patient care problem cases--established accurate basis for treatment
 - Directed a complex forensic investigation-findings directly improved safety of an Army operational unit
 - Published 3 abstracts and one peer reviewed article--enhanced understanding of a rare gastric disease
- Valuable resource in planning, development, fielding and sustainment of advanced medical technologies
 - Transformed AFIP into the most recognized Telepathology center nationwide--created a valuable asset
 - Planned, developed, and deployed telepathology system--saved in excess of \$450,000 in contractor costs
 - Established Internet diagnostic video computer link to Japan--no dial-up lines, tremendous cost savings
 - Recognized as lead expert in Telemedicine--his assistance and expertise sought by sister services/agencies.

It is further directed that he be considered for promotion to the grade of lieutenant colonel by Special Selection Boards for the Calendar Year 1995A through 1997A Lieutenant Colonel Medical Corps Promotion Boards.


JOE G. LINEBERGER
Director
Air Force Review Boards Agency

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

OCT 22 1998

IN THE MATTER OF:

DOCKET NUMBER: 98-00521

COUNSEL: [REDACTED]

HEARING DESIRED: YES

APPLICANT REQUESTS THAT:

The Officer Performance Report (OPR) rendered for the period 14 February 1995 through 14 June 1995, be replaced with a reaccomplished report covering the same period.

APPLICANT CONTENDS THAT:

The contested report is an inaccurate assessment of his performance during the contested period.

The applicant states that Sections III (Job Description), IV (Impact on Mission Accomplishment), and VI (Rater Overall Assessment) of the OPR contains incorrect statements.

In support of his appeal, the applicant provided a statement from the rater, statement from the CAP Administrator, the contested report, reaccomplished report, and the Evaluation Reports Appeal Board application, w/atchs.

Applicant's complete submission is attached at Exhibit A.

STATEMENT OF FACTS:

The applicant is currently serving on extended active duty in the grade of Major.

Applicant was considered and not selected for promotion to the grade of lieutenant colonel by the CY95 (6 November 1995), CY96 (12 November 1996), and CY97 (5 November 1997) Selection Boards.

The applicant appealed the contested report four times under the provisions of AFI 36-2401 and the appeals were considered and denied by the Evaluation Reports Appeal Board (ERAB).

OER/OPR profile since 1992, follows:

<u>PERIOD ENDING</u>	<u>EVALUATION OF POTENTIAL</u>
13 Feb 92	Meets Standards
13 Feb 93	Meets Standards
13 Feb 94	Meets Standards
13 Feb 95	Meets Standards
* 14 Jun 95	Meets Standards
14 Jun 96	Meets Standards
14 Jun 97	Meets Standards

* Contested report

AIR FORCE EVALUATION:

The Chief, Evaluation Programs Branch, HQ AFPC/DPPPEP, reviewed the application and states that reports are restricted from containing information that occurred outside the reporting period. It is permissible to correct the report by removing only the prohibited information and replacing it with achievements which did occur during the period. There are accomplishments mentioned in the disputed OPR that were achieved by the applicant prior to the reporting period of 14 February 1995 - 14 June 1995 and documented in a previous OPR closing 13 February 1995. Since the applicant was performing the same job, it is possible to have repeated or similar accomplishments in a subsequent OPR. They also note the duty title on both the original and the reaccomplished report is not accurate. Applicant's correct duty title is "Staff Pathologist." Therefore, the title on the "new" version is incorrect. The rater's administrative officer admits he prepared the OPR based on the ratee's previous evaluation. This practice is inappropriate and unauthorized. The rater has acknowledged the error and reaccomplished the OPR. They defer to AFPC/DPPPA for the appropriate resolution of this case.

A complete copy of the Air Force evaluation is attached at Exhibit C.

The Chief, Appeals and SSB Branch, Directorate of Personnel Program Management, HQ AFPC/DPPPA, reviewed the application and states that in comparing the contested OPR with the previous 13 February 1995, OPR, it does appear the rater's comments on that report are almost verbatim to those of the rater's comments on the contested report. The rater on the contested report was also in the applicant's rating chain for the two previously rendered reports. If the comments on the contested report were inaccurate at the time it was rendered, they question why the rater did not make the necessary changes to the comments when it was rendered. They reviewed the contested report with the reaccomplished version, and, as noted by the ERAB, the duty title and job description in section III and Impact on Mission

Accomplishment in Section IV on the reaccomplished OPR have been completely reworded. The changes to these three items have not been adequately and specifically explained by the rater. Since the rater was the additional rater on the applicant's two previous OPRs, they find it difficult to believe that she was completely unfamiliar with his duty performance and accomplishments when it came time to prepare the contested OPR. They would not object to correcting section IV of the contested OPR to reflect the comments to those that are included on the reaccomplished report. However, they do not support changing the duty title, job description, and Impact on Mission Accomplishment blocks until the rater has adequately and specifically explained the changes as HQ AFPC/DPPPA has requested on four separate occasions. In the rater's 18 February 1997 letter, we note she states, "It was discovered that the report contained incomplete information (that information had been provided by the member outside the reporting period)." This statement is somewhat confusing. The applicant states he had departed for his new assignment prior to the time the OPR was written and was not given the "ability to have input into the OPR." Is the rater saying the applicant provided inputs for the contested OPR, and if so, was the information provided for accomplishments occurring outside the rating period? If the answer is "yes," then we question the validity of both statements from the rater and the applicant. If the answer is "no," the applicant should obtain clarification from the rater.

A complete copy of their evaluation is attached at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A complete copy of the Air Force evaluation was forwarded to the counsel on 27 April 1998, for review and response within 30 days. As of this date, no response has been received by this office.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Sufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice warranting a change in Section IV (Impact on Mission Accomplishment) of the contested OPR closing 14 June 1995. In this respect, we note that the rater has submitted a statement indicating that the applicant's accomplishments were not listed on the contested report. The comments in Section IV of the reaccomplished report appear to more accurately describe

applicant's contributions. We note that the Air Force also believes that the comments in question should be replaced. Therefore, we recommend that the comments in Section IV of the contested report be removed and replaced with the comments provided on the reaccomplished report. In addition, we recommend his corrected record be considered for promotion to the grade of lieutenant colonel by Special Selection Boards (SSBs) for the CY95 through CY97 selection boards..

4. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice warranting voidance of the contested OPR closing 14 June 1995 and replacing it with the reaccomplished report covering the same period. We note that the reaccomplished report is completely different from the original report and, as stated by the Air Force, the changes have not been adequately and specifically explained by the rater. We suggest that the applicant obtain more detailed comments from the rater as to why the changes have been made and also address the errors that have been noted on the reaccomplished report by the Air Force. In view of our above determination and in the absence of evidence to the contrary, we find no basis upon which to recommend favorable action on applicant's request to have the contested OPR voided and replaced with the reaccomplished report provided with this appeal.

5. The applicant's case is adequately documented and it has not been shown that a personal appearance with or without counsel will materially add to our understanding of the issue(s) involved. Therefore, the request for a hearing is not favorably considered.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that the Officer Performance Report, AF Form 707A, rendered for the period 14 February 1995 through 14 June 1995, be amended in Section IV, Impact on Mission Accomplishment, by deleting comments and replacing them with the following:

- Superior achievement in all mission areas--when involved efficiency, timeliness and success are assured
- Successfully resolved many direct patient care problem cases--established accurate basis for treatment
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- Published 3 abstracts and one peer reviewed article--enhanced understanding of a rare gastric disease

-Valuable resource in planning, development, fielding and sustainment of advanced medical technologies

--Transformed AFIP into the most recognized Telepathology center nationwide--created a valuable asset

--Planned, developed, and deployed telepathology system--saved in excess of \$450,000 in contractor costs

--Established Internet diagnostic video computer link to Japan--no dial-up lines, tremendous cost savings

--Recognized as lead expert in Telemedicine--his assistance and expertise sought by sister services/agencies.

It is further directed that he be considered for promotion to the grade of lieutenant colonel by Special Selection Boards for the Calendar Year 1995A through 1997A Lieutenant Colonel Medical Corps Promotion Boards.

The following members of the Board considered this application in Executive Session on 28 July 1998, under the provisions of AFI 36-2603:

Mr. Michael P. Higgins, Panel Chair
 Dr. Gerald B. Kauvar, Member
 Mr. Allen Beckett, Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 13 February 1998, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, HQ AFPC/DPPPEP, dated 14 April 1998.
- Exhibit D. Letter, HQ AFPC/DPPPA, dated 17 April 1998.
- Exhibit D. Letter, SAF/MIBR, dated 27 April 1998.


 MICHAEL P. HIGGINS
 Panel Chair



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE TEXAS

17 APR 98

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPPA
550 C Street West, Suite 8
Randolph AFB TX 78150-4710

SUBJECT: [REDACTED]

Requested Action. The applicant, a medical corps (MC) officer, through counsel (hereafter referred to as the applicant), **requests** replacement of his 14 Jun 95 officer performance report (OPR) with a reaccomplished version.

Basis for Request. The applicant states the contested OPR was based on incomplete and inaccurate information. He states it contains incorrect statements in Sections **III, IV, and VI.**

Recommendation. See *Summary* below. **If the AFBCMR** decides in favor of the applicant, then promotion reconsideration by the following boards would be appropriate (even though the applicant has not specifically requested it on his DD Form 149): CY95 (6 Nov 95) (M0595A), CY96 (12 Nov 96) (M0596A), and CY97 (5 Nov 97) (M0597A) lieutenant colonel medical corps promotion boards.

Facts and Comments.

- a. The application is **timely** filed, Four similar applications were submitted under **MI 36-2401, Correcting Officer and Enlisted Evaluation Reports.** In each case, the Evaluation Reports Appeal Board (**ERAB**) was **not** convinced by the applicant's documentation and denied each appeal. A copy of each of HQ AFPC/DPPPAE's decision letters is included with this current appeal.
- b. The governing directive is **AFR 36-10, Officer Evaluation System, 1 Aug 88.**
- c. The applicant **has** three nonselections by the M0595A, M0596A, M0597A boards.
- d. **HQ AFPC/DPPPE**, has provided a technical advisory, dated 14 **Apr 98.** We add the following for the AFBCMR's consideration.
- e. The applicant contends he left the organization prior to the OPR **being** rendered and was unable to provide inputs into the OPR. **As** a result, the administrative assistant to the rater prepared the OPR "to the best of his ability based upon previous OPR's (sic) that had been written..." **As** a result, the applicant has appealed four times under **AFI 36-2401.**

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(1) On his second appeal, HQ AFPCDPPPA advised the applicant's servicing military 'personnel flight (MPF) in their decision letter that the rater's statement indicated the report was flawed because it contained information **provided by the member** outside the rating period. HQ AFPC/DPPPA states, "It also appears the rater took this opportunity to reaccomplish the entire report, rather than remove the erroneous information, in an attempt to 'rewrite history' and make the report stronger. **Detailed** explanations of what information in the report **is** in error, why it is in error, and why it **is** necessary to correct it, are required before the Board can **reconsider** this request."

(2) On the applicant's third AFI 36-2401 appeal, he provided another letter, dated 26 Jun 97, from the rater in which she identifies the sections on the OPR that are in error, but she offers no detailed explanation on each section outlining specifically what was in error on each. Again, HQ AFPC/DPPPA advised the applicant's MPF (see letter dated 31 Jul 97) that the ERAB had disapproved the appeal **and** stated that the rater's letter did not include the specific information previously discussed. In addition to the rater's letter, the applicant provided a letter from the administrative assistant who prepared the OPR for the rater's signature. HQ AFPC/DPPPA explained the administrative assistant's response only addressed one small portion of the OPR, but the ERAB noted the entire report had been rewritten. They state, "What is known now that wasn't known when he rendered the contested report that constitutes a total rewrite? Specific information is required."

(3) On the applicant's fourth **AFI** 36-2401 appeal, the applicant provided no new substantial documentation other than a letter from his attorney. Once again, the ERAB denied the appeal because no specific information was provided by the rater with this appeal. (See HQ AFPC/DPPPA's letter, dated 7 Nov 97.)

f. In comparing the contested OPR with the previous 13 Feb 95 OPR, it does appear the rater's comments on the 13 Feb 95 OPR are almost verbatim to those of the rater's comments on the contested report. However, we note the rater on the contested report **was** also **in** the applicant's rating chain for the two previously rendered reports. If the comments on **the** contested report were inaccurate at the time it was rendered, we question why the rater did not make the necessary changes to the comments when it was rendered. Further, **we** reviewed the contested report with the reaccomplished version, and, **as** noted by the ERAB, the duty title and job description in **section III and** Impact on Mission Accomplishment in Section IV on the reaccomplished OPR have been completely reworded. The changes to these three items have not been adequately and specifically explained by the rater. Since the rater **was** the additional rater on the applicant's two previous OPR, we find it difficult to believe that she was completely unfamiliar with his duty performance and accomplishments when it came time to prepare the contested OPR. However, based on the technical flaw noted in HQ AFPC/DPPPEP's advisory, we would not object to correcting section IV of the contested OPR to reflect the comments to those that are included on the reaccomplished report. However, we do **not** support changing the **duty** title, job description, and Impact on Mission Accomplishment blocks until the rater has adequately and specifically explained the changes **as** HQ AFPCIDPPPA has requested on four separate occasions.

g. The applicant states, "The Board [ERAB] previously indicated that (the applicant) had not provided enough specific errors in **his** previous packages. However, if the Board looks at the specific section involved **and** the OPR that is being submitted by (the rater), it is clear what the errors are." It is not incumbent on the ERAB to determine what alleged errors were made or why they were made when the report **was** rendered. Rather, the burden of proof is on the applicant, and he has been given four previous opportunities to provide the specific information ~~that~~ is required **and** necessary to challenge the validity of the report, and he **has** not done *so*.

h. In the rater's 18 Feb 97 letter, we note she states, "**It** was discovered that the report contained incomplete information (that information had been provided **by** the member outside the reporting period)." This statement **is** somewhat confusing. The applicant states he had departed for **his** new assignment prior to the time the OPR **was** written **and was** not given the "ability to have input into the OPR." **Is** the rater saying the applicant provided inputs for the contested **OPR**, and if so, was the information provided for accomplishments occurring outside the rating period? If the answer is "**yes**," then we question the validity of both statements **from** the rater and the applicant. If the answer is "no," the applicant **should** obtain clarification from the rater.

Summary. Based on the evidence provided and HQ AFPC/DPPPEP's findings, **we** believe our recommendation in paragraph f is appropriate.


MARIANNE STERLING, Lt Col, USAF
Chief, Appeals **and** SSB Branch
Directorate of Pers Program ~~MT~~



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE TEXAS

MEMORANDUM FOR SAF/AFBCMR

14 APR 1998

FROM: HQ AFPC/DPPPEP
550 C Street West Ste 07
Randolph AFB TX 78150-4709

SUBJ: Application for Correction of Military Records, [REDACTED]
[REDACTED]

REQUESTED ACTION: Applicant requests the Officer Performance Report (OPR) closing out 14 Jun 95 be replaced with a rewritten OPR.

BASIS FOR REQUEST: Applicant bases this request on the allegation the OPR was based on "incomplete and inaccurate information" and that it contains incorrect statements in several sections.

BACKGROUND: Applicant has requested four times for his OPR, which closed out on 14 Jun 95, to be removed from his record and replaced with a new OPR his rater has prepared. His contention is that the OPR in his record does not reflect his current accomplishments. Rather, the rater used statements almost verbatim from a previously rendered OPR. The Air Force Evaluation Report Appeals Board (ERAB) has denied his appeal each time.

FACTS: The applicant's rater has provided a letter stating her administrative officer prepared the 14 Jun 95 OPR using incomplete information. An OPR that is made a matter of record is considered to be an accurate assessment of the ratee, unless evaluators in the rating chain provide clear evidence that an error or injustice occurred. It is inappropriate for raters to include accomplishments or incidents in an OPR that occurred outside the rating period.

DISCUSSION: Reports are, in fact, restricted from containing information that occurred outside the reporting period. If it is subsequently found that a report has violated this requirement, it is permissible to correct the report by removing *only* the prohibited information and replacing it with achievements which *did* occur during the period.

In this case, there are accomplishments mentioned in the disputed OPR that were achieved by the applicant prior to the reporting period of 14 Feb 95 - 14 Jun 95 and documented in a previous OPR closing out 13 Feb 95. Examples of repeated information are: the applicant planned and executed the first ever AFIP Telemedicine meeting, presented 20 lectures, 1 paper, and trained 20 physicians, was selected as a U.S. Delegate to the International Congress for Military medicine, and was appointed Vice-chairman, College of American Pathologist, Imaging Committee. Since

applicant **was** performing the same job, it **is** possible to have repeated or similar accomplishments in a subsequent OPR..

We also note the duty title on both the original and the reaccomplished report is **not** accurate. Applicant's correct duty title is "**Staff Pathologist.**" Therefore, the title on the "new" version is incorrect.

The rater's administrative officer admits he prepared the OPR based on the ratee's **previous** evaluation. This practice is inappropriate and unauthorized. The rater **has** acknowledged the error and reaccomplished the OPR.

RECOMMENDATION: We defer to DPPPA for the appropriate resolution of this case.


DARRYL L. WILSON, USAF
Chief, Evaluation Programs Branch